

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

TARSUS CONNECT, LLC,
Plaintiff/Counter-Defendant,

v.

Case No.: 1:17-cv-05165-SCJ

CVENT, INC.
Defendant/Counter-Plaintiff.

**RESPONSE TO ORDER OF SEPTEMBER 11, 2019 AND
MOTION AND BRIEF TO SUBSTITUTE AND SUPPLEMENT EARLIER
PRODUCED, DUPLICATE DOCUMENTS**

The Court has directed Plaintiff Tarsus Connect, LLC (“Tarsus Connect”) to identify which documents were produced prior to the close of discovery on January 14, 2019, and which were produced thereafter, by bates number, exhibit number and corresponding docket number. In compliance therewith, Tarsus Connect submits this response. In addition, because certain excluded documents are duplicates of documents produced before the close of discovery, Tarsus Connect moves for leave to substitute citations to such duplicate documents and supplement the record accordingly.

I. Dates of Tarsus Connect's Productions

Tarsus Connect produced documents in twenty-two (22) volumes to Defendant Cvent, Inc. ("Cvent"). Volume Nos. 1-19 (Bates Nos. TARSUS 000001-006559) were produced on or before the close of discovery on January 14, 2019. Volume Nos. 20-22 were produced as follows:

<u>PRODUCTION VOLUME</u>	<u>PRODUCTION DATE</u>	<u>CONTENTS</u>
VOL 20: TARSUS 006560-009836	January 18, 2019	Results from search of Mr. Collinson's e-mails
VOL 21: TARSUS 009837-009842	February 7, 2019	Recent confusion e-mail
VOL 22: TARSUS 009843-009845	March 8, 2019	Recent confusion email <u>not</u> relied on in briefing

In response to the Court's direction, any document bearing a Bates number between TARSUS 000001 and TARSUS 006559 was produced before the close of discovery on January 14, 2019, and any document bearing a Bates number between TARSUS 006560 and TARSUS 009846 was produced after the close of discovery. Other documents that are not referenced by a Bates number, such as original CONNECT Magazines used at a deposition, were also produced before the close of

discovery. Other than Volumes 20-22, Tarsus Connect believes that no other documents were produced after the close of discovery.¹

II. Identification By Bates Number, Exhibit Number and Docket Entry

A. Documents excluded under the September 11, 2019 Order (Dkt No. 130)

In further response, Plaintiff identifies each affected document by Bates number, exhibit number and corresponding docket number entry:²

- 1. Dkt No. 77-2:** Statement of Undisputed Material Facts In Support of Plaintiff Tarsus Connect's Motion For Summary Judgment of Trademark Infringement.³ (Exhibit 1.)
 - a. SMF 28 – reference to TARSUS 007150 (Dkt No. 75-10 at 382);
 - b. SMF 30 – reference to TARSUS 007320-007328 (Dkt No. 77-17 at 450-458);
 - c. SMF 31 – reference to TARSUS 007498 (Dkt No. 77-17 at 471);
 - d. SMF 72 – TARSUS 007207 (Dkt No. 75-10 at 381);
 - e. SMF 87 – TARSUS 006565 (Dkt No. 75-10 at 380);
 - f. SMF 96 – TARSUS 007208 (Dkt No. 77-17 at 449);
 - g. SMF 103 –
 1. TARSUS 007887 (Dkt No. 77-17 at 545),

¹ Tarsus Connect recognizes that given the volume of documents in this case, a mistake could have been made. Should the Court have a question about a particular document, Tarsus Connect stands ready to conduct additional research and respond.

² For the convenience of the Court, Plaintiff provides as Exhibits 1 – 8 hereto a copy of the referenced document highlighting the subject reference.

³ Individual statements of fact are designated as "SMF ____."

2. TARSUS 007645 (Dkt No. 77-17 at 483),
3. TARSUS 007413 (Dkt No. 77-17 at 467);
- h. SMF 104 – TARSUS 007337 (Dkt No. 77-17 at 460);
- i. SMF 106 – TARSUS 007331 (Dkt No. 77-17 at 459);
- j. SMF 107 – TARSUS 009327-28 (Dkt No. 77-17 at 556-557);
- k. SMF 137 –
 1. TARSUS 007546-48 (Dkt No. 77-17 at 480-482);
 2. TARSUS 007364-65 (Dkt No. 77-17 at 461-462);
 3. TARSUS 006654 (Dkt No. 77-17 at 432);
 4. TARSUS 007698-99 (Dkt No. 77-17 at 485-486);
 5. TARSUS 007417 (Dkt No. 77-17 at 468);
 6. TARSUS 007092-94 (Dkt No. 77-17 at 437-439);
 7. TARSUS 007114-15 (Dkt No. 77-17 at 447-48);
 8. TARSUS 007787-88 (Dkt No. 77-17 at 537-38);
 9. TARSUS 007107 (Dkt No. 77-17 at 446);
 10. TARSUS 009329-30 (Dkt No. 77-17 at 558-59);
 11. TARSUS 007373-74 (Dkt No. 77-17 at 464-65);
 12. TARSUS 009453-55 (Dkt No. 77-17 at 560-62);
 13. TARSUS 007097-98 (Dkt No. 77-17 at 442-43);
 14. TARSUS 007409 (Dkt No. 77-17 at 466);
 15. TARSUS 007527-29 (Dkt No. 77-17 at 473-75);
 16. TARSUS 007799 (Dkt No. 77-17 at 541);
 17. TARSUS 007530-31 (Dkt No. 77-17 at 476-77);
 18. TARSUS 007473-74 (Dkt No. 77-17 at 469-70);
 19. TARSUS 007372 (Dkt No. 77-17 at 463);
 20. TARSUS 007095-96 (Dkt No. 77-17 at 440-41);
 21. TARSUS 009269-70 (Dkt No. 77-17 at 549-50);
 22. TARSUS 007068 (Dkt No. 77-17 at 434);
 23. TARSUS 006975 (Dkt No. 77-17 at 433);
 24. TARSUS 007104 (Dkt No. 77-17 at 445);
 25. TARSUS 007704-52 (Dkt No. 77-17 at 487-536);
 26. TARSUS 007091 (Dkt No. 77-17 at 436);
 27. TARSUS 009302 (Dkt No. 77-17 at 555);
 28. TARSUS 009275-76 (Dkt No. 77-17 at 553-554);
 29. TARSUS 007544-45 (Dkt No. 77-17 at 478-479);

30. TARSUS 009271-72 (Dkt No. 77-17 at 551-552);
31. TARSUS 007504 (Dkt No. 77-17 at 472);
32. TARSUS 007100 (Dkt No. 77-17 at 444);
33. TARSUS 007884 (Dkt No. 77-17 at 544);
34. TARSUS 007834-35 (Dkt No. 77-17 at 542-543);
35. TARSUS 008447 (Dkt No. 77-17 at 548);
36. TARSUS 007797-98 (Dkt No. 77-17 at 539-540);
37. TARSUS 007696 (Dkt No. 77-17 at 484); and
38. TARSUS 007904-05 (Dkt No. 77-17 at 546-547).

- l. SMF 138 – TARSUS 007704-52 (Ex. 41; Dkt No. 77-17 at 487-535);
- m. SMF 140 – TARSUS 007530-31 (Ex. 41; Dkt No. 77-17 at 476-477);
- n. SMF 141 – TARSUS 007527-29 (Ex. 41; Dkt No. 77-17 at 473-475).

2. Dkt No. 79: Declaration of John Christopher Collinson. (Exhibit 2.)

- a. Paragraph 29 – TARSUS 007510 (Dkt No. 75-10 at 382);
- b. Paragraph 32 – TARSUS 007320-7328 (Dkt No. 77-17 at 450-58);
- c. Paragraph 57 – TARSUS 007208 (Dkt No. 75-10 at 380);
- d. Paragraph 63 – TARSUS 007331 (Dkt No. 77-17 at 459);
- e. Paragraph 64 – TARSUS 007078 (Dkt No. 77-17 at 435);
- f. Paragraph 67 – referencing Exhibit 41 (Dkt No. 77-17):
 1. TARSUS 007546-007548 (Dkt No. 77-17 at 480-482);
 2. TARSUS 007364-007365 (Dkt No. 77-17 at 461-462);
 3. TARSUS 006654 (Dkt No. 77-17 at 432);
 4. TARSUS 007698-007699 (Dkt No. 77-17 at 485-486);
 5. TARSUS 007417 (Dkt No. 77-17 at 468);
 6. TARSUS 007092-007094 (Dkt No. 77-17 at 437-438);
 7. TARSUS 007114-007115 (Dkt No. 77-17 at 447-448);
 8. TARSUS 007787-007788 (Dkt No. 77-17 at 537-538);
 9. TARSUS 007107 (Dkt No. 77-17 at 446);

10. TARSUS 009329-009330 (Dkt No. 77-17 at 558-559);
11. TARSUS 007373-007374 (Dkt No. 77-17 at 464-465);
12. TARSUS 009453-009455 (Dkt No. 77-17 at 560-562);
13. TARSUS 007097-007098 (Dkt No. 77-17 at 441-442);
14. TARSUS 007409 (Dkt No. 77-17 at 466);
15. TARSUS 007527-007529 (Dkt No. 77-17 at 473-475);
16. TARSUS 007799 (Dkt No. 77-17 at 541);
17. TARSUS 007530-007531 (Dkt No. 77-17 at 476-477);
18. TARSUS 007473-007474 (Dkt No. 77-17 at 469-470);
19. TARSUS 007372 (Dkt No. 77-17 at 463);
20. TARSUS 007095-007096 (Dkt No. 77-17 at 440-441);
21. TARSUS 009269-009270 (Dkt No. 77-17 at 549-550); and
22. TARSUS 007068 (Dkt No. 77-17 at 434).

3. **Dkt No. 85-1**: Plaintiff Tarsus Connect LLC's Corrected Memorandum of Law in Support of Its Motion for Summary Judgment of Trademark Infringement.⁴ (Exhibit 3.)

- a. Page 4 – reference to SMF 28, 30, 31, 87;
- b. Page 5 – reference to SMF 106, 121;
- c. Page 12 – reference to SMF 28;
- d. Page 13 – reference to SMF 28, 31;
- e. Page 15 – reference to SMF 121;
- f. Page 18 – reference to SMF 106, 121;
- g. Page 20 – reference to SMF 137, TARSUS 007787-88 (Ex. 41, Dkt. No. 77-17 at 537-538), 007762 (Ex. 41, Dkt. No. 77-17 at 536);
- h. Page 21 – reference to TARSUS 007107 (Ex. 41, Dkt. No. 77-17 at 446), 007504 (Ex. 41, Dkt. No. 77-17 at 472), 007544-45 (Ex. 41, Dkt. No. 77-17 at 478-9), 009453-55 (Ex. 41, Dkt. No. 77-17 at 560-2), 007473-74 (Ex. 41, Dkt. No. 77-17 at 469-70), 007527-29 (Ex. 41, Dkt. No. 77-17 at 473-5), SMF 137, SMF 138, SMF 140.

⁴ References to “SMF__” are addressed in Section II., A. 1. above.

4. **Dkt No. 101-1**: Plaintiff Tarsus Connect, LLC's Response to Cvent Inc.'s Statement of Material Facts in Support of Cvent's Motion for Summary Judgment.⁵ (Exhibit 4.)
- a. PRSMF 18 – reference to TARSUS007498-99 [Dkt. 77-17 at 471-72];
 - b. PRSMF 24 – reference to SMF 28;
 - c. PRSMF 60 – reference to TARSUS007498 (Dkt. No. 77-17 at 471), TARSUS007320-28 (41, Dkt. No. 77-17 at 450-458);
 - d. PRSMF 108 – reference to TARSUS007887 (Dkt. No 77-17 at 545), TARSUS007645 (Dkt. No. 77-17 at 483); TARSUS007546-48 (Dkt. No. 77-17 at 480-482; Ex. RR, Dkt. 101-9 at 2-4), TARSUS007413 (Dkt. No 77-17 at 467), TARSUS007364-65 (Dkt. No 77-17 at 461-62; Ex. RR, Dkt. 101-9 at 5-6), TARSUS009327-28 (Dkt. No 77-17 at 556-57); SMF 137;
 - e. PRSMF 119 – reference to SMF 138, 140, TARSUS007704-52 (Dkt. 77-17 at 487-535), TARSUS007530-31 (Ex. RR; Dkt. No. 101-9 at 34-35);
 - f. PRSMF 120 – reference to TARSUS 007498 (Dkt No. 77-17 at 471) TARSUS 007320-28 (Dkt. 77-17 at 450-458);
 - g. PRSMF 121 – reference to TARSUS007498 (Dkt. No. 77-17 at 471), TARSUS007320-28 (Dkt. No. 77-17 at 450-458);
 - h. PRSMF 131 – reference to TARSUS007498 (Dkt. No. 77-17 at 471), TARSUS007320-28 (Dkt. No. 77-17 at 450-458); and
 - i. PRSMF 134 – reference to SMF 28, 30, 31.

⁵ See n. 4, above.

5. **Dkt No. 101-2:** Plaintiff Tarsus Connect, LLC’s Statement of Additional Facts in Opposition to Cvent, Inc.’s Motion for Summary Judgment.⁶ (Exhibit 5.)

- a. PASMf 8 – Exhibit L, TARSUS 006583 – 006611 (Dkt No. 98-16);
- b. PASMf 24 – Exhibit KK, TARSUS 009837-009842 (Dkt No. 101-8);
- c. PASMf 45 – Exhibit KK, TARSUS 009837-009842 (Dkt No. 101-8);
- d. PASMf 46 – Exhibit EE, TARSUS 007337 (Dkt No. 101-7);
- e. PASMf 57 – Exhibit KK, TARSUS 009837-009842 (Dkt No. 101-8);

6. **Dkt No. 102-1:** Plaintiff Tarsus Connect, LLC’s Memorandum of Law in Opposition to Defendant Cvent Inc.’s Motion for Summary Judgment.⁷ (Exhibit 6.)

- a. Page 1 – reference to SMF 28, 30, 31;
- b. Page 2 – reference to SMF 137, 138, 140; PRSMF 108;
- c. Page 3 – reference to SMF 24-34, PRSMF 121;
- d. Page 4 – reference to SMF 28;
- e. Page 6 – reference to PRSMF 18;
- f. Page 8 – reference to SMF 28, PRSMF 131;
- g. Page 9 – reference to SMF 31, PRSMF 18, 121;
- h. Page 10 – reference to SMF 28, PRSMF 18;
- i. Page 11 – reference to SMF 30, 31;
- j. Page 13 – reference to SMF 96;
- k. Page 14 – reference to PRSMF 18;
- l. Page 15 – reference to SMF 121;
- m. Page 16 – reference to SMF 137;

⁶ “PASMf” refers to Plaintiff’s Additional Statement of Facts, Dkt No. 101-2. “PRSMF” refers to Plaintiff’s Responsive Statement of Facts, Dkt No. 101-1.

⁷ Reference to “SMF__” are addressed in Section II. A. 1; references to “PSAMF__” are addressed in Section II. A. 5.; and references to “PRSMF__” are addressed in Section II. A. 4.

- n. Page 17 – reference to SMF 87, 118-122;
- o. Page 18 – reference to SMF 137, 138, 140, 141;
- p. Page 19 – reference to SMF 63-81;
- q. Page 20 – reference to SMF 107, 137, 138, 140, 141;
- r. Page 22 – reference to SMF 137, PRSMF 108, PRSMF 109;
- s. Page 24 – reference to PRSMF 18;

7. **Dkt No. 114-1**: Tarsus Connect, LLC’s Reply Brief in Support of Its Motion for Summary Judgment of Trademark Infringement.⁸ (Exhibit 7.)

- a. Page 2 – reference to SMF 137;
- b. Page 3 – reference to SMF 137;
- c. Page 4 – reference to SMF 137, PRSMF 18;
- d. Page 5 – reference to SMF 28, 121;
- e. Page 6 – reference to SMF 87;
- f. Page 7 – reference to SMF 137, 138, 140, 141;
- g. Page 8 – reference to SMF 106;
- h. Page 9 – reference to SMF 87, 103, 104, 106, 137, 138, 140, 141, PRSMF 108;
- i. Page 10 – reference to PRSMF 108, 119; SMF 103, 104, 106, 138, 140;
- j. Page 11 – reference to SMF 28, 30, 31;
- k. Page 12 – reference to SMF 28;
- l. Page 14 – reference to PRSMF 18; SMF 121.

8. **Dkt No. 114-2**: Plaintiff Tarsus Connect, LLC’s Response to Defendant Cvent’s Statement of Additional Facts in Opposition to Plaintiff’s Motion For Summary Judgment of Trademark Infringement. (Exhibit 8.)

- a. Cvent Fact No. 172 – reference to TARSUS 007498 (Dkt No. 77-17 at 471);

⁸ See n. 6, above.

- b. Cvent Fact No. 173 – reference to TARSUS 007320-28 (Dkt No. Dkt. No. 77-17 at 450-58);
- c. Cvent Fact No. 180 – reference to TARSUS 007498, 007320-28 (Dkt No. 77-17 at 471 and 450-58, respectively);
- d. Cvent Fact No. 183 – reference to TARSUS 007887 (Ex. 41, Dkt No. 77-17 at 545), 007645 (Ex. 41, Dkt No. 77-17 at 483), 007546-48 (Ex. 41, Dkt No. 77-17 at 480-82), 007413 (Ex. 41, Dkt No. 77-17 at 467), 007364-65 (Ex. 41, Dkt No. 77-17 at 461-2), 009327-28 (Ex. 41, Dkt No. 77-17 at 556-7); SMF 137;
- e. Cvent Fact No. 188 – reference to SMF 138, 140; TARSUS 007704-52 (Ex. 41, Dkt No. 77-17 at 487-535, 007530-31 (Ex. 41, Dkt No. 77-17 at 476-77);
- f. Cvent Fact No. 189 – reference to SMF 87, 137 (Dkt No. 77-2).

B. Cross-references to Documents Cited by Tarsus Connect

The documents cited by Tarsus Connect are identified in the Declarations of Mary Margaret Cogburn In accordance with the Court Order, a detailed recitation is provided below.

- 1. **Dkt No. 74-03**: Declaration of Mary Margaret Cogburn;
 - a. Exhibit 1: excerpts from the December 18, 2018 deposition transcript of John Christopher Collinson (Dkt No. 72-3);
 - b. Exhibit 2: Deposition Exhibit 5 from the December 18, 2018 deposition of John Christopher Collinson (Dkt No. 72-4);
 - c. Exhibit 3: Deposition Exhibit 54 from the December 12, 2018 deposition of John Christopher Collinson (Dkt No. 74-6; TARSUS 002475);
 - d. Exhibit 4: excerpts from the November 27, 2018 deposition transcript of Eric Eden (Dkt No. 74-7);
 - e. Exhibit 5: Deposition exhibit 12 from the November 27, 2018 deposition of Eric Eden (Dkt No. 74-8; Cvent 000015-16);

- f. Exhibit 6: excerpts from the December 11, 2018 deposition transcript of Ray Ezelle (Dkt No. 74-9);
- g. Exhibit 7: Deposition Exhibit 35 from the December 11, 2018 deposition of Ray Ezelle (Dkt No. 74-10; TARSUS 001772);
- h. Exhibit 8: Deposition Exhibit 40 from December 11, 2018 deposition of Ray Ezelle (Dkt No. 74-11; TARSUS 004679-4723);
- i. Exhibit 9: Deposition Exhibit 21 to the December 4, 2018 deposition of Chuck Goorah (Dkt No. 74-12; Cvent 001445-1449);
- j. Exhibit 10: excerpts from the December 3, 2018 deposition transcript of Patrick Smith (Dkt No. 74-13);
- k. Exhibit 11: Deposition Exhibit 4 from the December 3, 2018 deposition of Patrick Smith (Dkt No. 75; Cvent 005018-23);
- l. Exhibit 12: Deposition Exhibit 15 from the December 3, 2018 deposition of Patrick Smith (Dkt No. 75-1);
- m. Exhibit 13: Deposition Exhibit 16 from the December 3, 2018 deposition of Patrick Smith (Dkt No. 75-2);
- n. Exhibit 14: Deposition Exhibit 17 from the December 3, 2018 deposition of Patrick Smith (Dkt No. 75-3);
- o. Exhibit 15: Deposition Exhibit 20 from the December 3, 2018 deposition of Patrick Smith (Dkt No. 75-4; Cvent 04209);
- p. Exhibit 16: Deposition Exhibit 21 from the December 3, 2018 deposition of Patrick Smith (Dkt No. 75-5; Cvent 00707-17).
- q. Exhibit 17: Deposition Exhibit 22 from the December 3, 2018 deposition of Patrick Smith (Dkt No. 75-6);
- r. Exhibit 18: Deposition Exhibit 23 from the December 3, 2018 deposition of Patrick Smith (Dkt No. 75-7).
- s. Exhibit 19: documents produced by Cvent, Inc. during this proceeding (Dkt No. 75-8; Cvent 00393-98 (pp. 2-7), Cvent 001809-11 (pp. 8-10), Cvent 02261-86 (pp. 11-36), Cvent 06475-81 (pp. 37-43), Cvent 07647-48 (pp. 44-45), Cvent 10972-4 (pp. 46-49));
- t. Exhibit 20 Part 1: documents produced by Tarsus Connect, LLC during this proceeding Dkt No. 75-9;
 - TARSUS 0003-5 (pp. 2-4);
 - TARSUS 00011-39 (pp. 6-33);
 - TARSUS 00069 (pp. 34);

TARSUS 00090 (pp. 35);
TARSUS 000102 (pp. 36);
TARSUS 00130-37 (pp. 37-44);
TARSUS 00184-86 (pp. 45-48);
TARSUS 00229-244 (pp. 49-64);
TARSUS 00508-09 (pp. 65-69);
TARSUS 00597-612 (pp. 70-82);
TARSUS 00632-34 (pp. 83-85);
TARSUS 00639-43 (pp. 86-90);
TARSUS 00675 (pp. 91)
TARSUS 00737 (pp. 92)
TARSUS 00760-63 (pp. 93-95)
TARSUS 00776-77 (pp. 96-97)
TARSUS 00800-802 (pp. 98-100)
TARSUS 00824-1099 (pp. 101-376)
TARSUS 001232 (pp. 377)
TARSUS 001384-86 (pp. 378-380)
TARSUS 001497 (p. 381)

- u. Exhibit 20 Part 2: further documents produced by Tarsus Connect, LLC during this proceeding. Dkt No. 75-10;

TARSUS 01546-1732 (pp. 2-188),
TARSUS 002203-05 (pp. 196-198),
TARSUS 002242 (p. 199)
TARSUS 002254 (p. 200)
TARSUS 002314-15 (pp. 201-02)
TARSUS 002400 (p. 203)
TARSUS 002403-5 (pp. 204-207)
TARSUS 002468 (p. 208)
TARSUS 002472 (p. 209)
TARSUS 002475 (p. 210)
TARSUS 002478 (p. 211)
TARSUS 003283-86 (pp. 212-216)
TARSUS 003293 (p. 217)
TARSUS 003308 (p. 218)
TARSUS 003313 (p. 219)
TARSUS 003320 (p. 220)
TARSUS 003337-38 (pp. 221-22)

TARSUS 003341-47 (pp. 223-30)
TARSUS 003361-68 (pp. 231-38)
TARSUS 003504-06 (pp. 239-41)
TARSUS 003883 (p. 242)
TARSUS 003941 (p. 243)
TARSUS 004357 (p. 244)
TARSUS 004449 (p. 245)
TARSUS 004501 (p. 246)
TARSUS 004912 (p. 291)
TARSUS 004956-5018 (pp. 292-354)
TARSUS 005145-46 (pp. 355-357)
TARSUS 005172-73 (pp. 358-59)
TARSUS 005188-89 (pp. 360-361)
TARSUS 005513-19 (pp. 362-68)
TARSUS 005593 (p. 369)
TARSUS 006095-98 (pp. 370-74)
TARSUS 006560-65 (pp. 375-80)
TARSUS 007207 (p. 381)
TARSUS 007510 (p. 382)

- v. Exhibit 21, excerpts of Marketplace Guides from several CONNECT magazines published by Collinson Publishing. (Dkt. Nos. 83-1; 83-2; 83-3);
- w. Exhibit 22: excerpts from a magazine entitled “CONNECT” dated September 2009 (Dkt No. 83-4);
- x. Exhibit 23: magazine entitled “ELITE MEETINGS BY CVENT” (Deposition Exhibit 6 to deposition of Patrick Smith) (Dkt No. 83-5);
- y. Exhibit 24: excerpts from a magazine entitled “GTP: Group Travel Planet” dated January 2009 (Dkt No. 83-6);
- z. Exhibit 25: excerpts from a magazine entitled “Rejuvenate” dated October 2007 and published by Collinson Publishing (Dkt No. 83-7);
- aa. Exhibit 26: a movie file produced under bates number TARSUS004779. A copy was hand-filed with the Court on January 23, 2019.

- bb. Exhibit 27: excerpts from the December 12, 2018 deposition of John Christopher Collinson [FILED UNDER SEAL] (Dkt No. 77-3).
- cc. Exhibit 28: excerpts from the December 4, 2018 deposition of Chuck Ghoorah [FILED UNDER SEAL] (Dkt No. 77-4).
- dd. Exhibit 29: deposition exhibit 5 from the December 4, 2018 deposition of Chuck Ghoorah [FILED UNDER SEAL] (Dkt No. 77-5; Cvent 005544-5).
- ee. Exhibit 30: deposition exhibit 31 from the December 4, 2018 deposition of Chuck Ghoorah [FILED UNDER SEAL] (Dkt No. 77-6).
- ff. Exhibit 31: deposition exhibit 5 from the November 27, 2018 deposition of Eric Eden [FILED UNDER SEAL] (Dkt No. 77-7; Cvent 001122-3).
- gg. Exhibit 32: deposition exhibit 6 from the November 27, 2018 deposition of Eric Eden [FILED UNDER SEAL] (Dkt No. 77-8; Cvent 001134).
- hh. Exhibit 33: deposition exhibit 14 from the November 27, 2018 deposition of Eric Eden [FILED UNDER SEAL] (Dkt No. 77-9; Cvent 004968-73).
- ii. Exhibit 34: deposition exhibit 15 from the November 27, 2018 deposition of Eric Eden [FILED UNDER SEAL] (Dkt No. 77-10; Cvent 000553-57).
- jj. Exhibit 35: deposition exhibit 17 from the November 27, 2018 deposition of Eric Eden [FILED UNDER SEAL] (Dkt No. 77-11; Cvent 000558-566).
- kk. Exhibit 36: deposition exhibit 18 from the November 27, 2018 deposition of Eric Eden [FILED UNDER SEAL] (Dkt No. 77-12; Cvent 004963-4).
- ll. Exhibit 37: deposition exhibit 19 from the November 27, 2018 deposition of Eric Eden [FILED UNDER SEAL] (Dkt No. 77-13; Cvent 00586).
- mm. Exhibit 38: deposition exhibit 20 from the November 27, 2018 deposition of Eric Eden [FILED UNDER SEAL] (Dkt No. 77-14; Cvent 00524-537).
- nn. Exhibit 39: Defendant/Counterclaimant Cvent, Inc.'s Third Supplemental Responses and Objections to Plaintiff/Counterclaim Defendant Tarsus Connect, LLC's First

Set of Interrogatories (Nos. 1-4) [FILED UNDER SEAL] (Dkt No. 77-15).

- oo. Exhibit 40: documents produced by Cvent, Inc. as either CONFIDENTIAL or HIGHLY CONFIDENTIAL during this proceeding [FILED UNDER SEAL] (Dkt No. 77-16; Cvent 0001-0004 (pp. 2-5), Cvent 00523 (p. 6), Cvent 538 (p. 7), Cvent 00566-68 (pp. 8-10), Cvent 0590 (p. 11); Cvent 6554-6 (p. 12-14).
- pp. Exhibit 41: certain documents produced by Tarsus Connect, LLC as either CONFIDENTIAL or HIGHLY CONFIDENTIAL during this proceeding [FILED UNDER SEAL].
- qq. Exhibit 42: video file produced under bates number TARSUS001183. A copy was hand-filed with the Court on January 23, 2019.
- rr. Exhibit 43: video file produced under bates number TARSUS001184. A copy of this document was hand-filed with the Court on January 23, 2019.
- ss. Exhibit 44: video file produced under bates number TARSUS001185. A copy of this document was hand-filed with the Court on January 23, 2019.

2. Dkt No. 98-03 Declaration of Meg Cogburn to Memo of Law in Opposition to Defendant's Motion Summary Judgment;

- a. Exhibit A: excerpts from a magazine entitled "Association Specialty Connect 2014 Marketplace Guide" (Dkt. No. 98-4)
- b. Exhibit B: document produced under bates numbers TARSUS006849 – TARSUS006866 (Dkt No. 98-5).
- c. Exhibit C: document produced under bates numbers TARSUS007893 – TARSUS007894 and marked CONFIDENTIAL. [FILED UNDER SEAL] (Dkt No. 101-3)
- d. Exhibit D: document produced under bates numbers TARSUS005202 – TARSUS005203 (Dkt No. 98-7)
- e. Exhibit E: document produced under bates number TARSUS007670 (Dkt No. 98-8)
- f. Exhibit F: document produced under bates numbers TARSUS004820 – TARSUS004821 and marked CONFIDENTIAL. [FILED UNDER SEAL] (Dkt No. 101-4)

- g. Exhibit G: document produced under bates number TARSUS004459 (Dkt No.98-10).
- h. Exhibit H: excerpts from magazines entitled “2016 Event Guide Association Specialty Connect,” “2016 Event Guide Sports Connect” and “2016 Event Guide Corporate Expo Connect.” (Dkt No. 98-11 and 98-12)
- i. Exhibit I: to Tarsus Connect’s Response to SMF are true and correct copies of documents produced under bates numbers TARSUS002252, TARSUS002253, TARSUS005202 – TARSUS005203 and TARSUS002232 – TARSUS002235.
- j. Exhibit J: document produced under bates number TARSUS006007. (Dkt No. 98-14)
- k. Exhibit K: document produced under bates numbers TARSUS005181 – TARSUS005182. (Dkt No. 98-15)
- l. Exhibit L: document produced under bates numbers TARSUS006583 – TARSUS006611. (Dkt No. 98-16)
- m. Exhibit M: document produced under bates numbers TARSUS009612 – TARSUS009613 and marked HIGHLY CONFIDENTIAL. [FILED UNDER SEAL] (Dkt No. 101-5)
- n. Exhibit P: produced under bates number CVENT-N 0014919. (Dkt No. 98-18)
- o. Exhibit Q: to Tarsus Connect’s SAMF is a true and correct copy of a document produced under bates number CVENT-N 0010104. (Dkt No.98-19)
- p. Exhibit R: documents produced under bates numbers TARSUS006847 – TARSUS006848 and TARSUS006553 – TARSUS006554. (Dkt No. 98-20)
- q. Exhibit S: document produced under bates numbers CVENT006562 – CVENT006602. (Dkt No. 98-21)
- r. Exhibit T: document produced under bates numbers CVENT006603 – CVENT006632. (Dkt No.98-22)
- s. Exhibit U: document produced under bates numbers CVENT006748 – CVENT006780. (Dkt No. 98-23)
- t. Exhibit V: document produced under bates numbers CVENT006802 – CVENT006839. (Dkt No. 98-24)
- u. Exhibit W: document produced under bates numbers CVENT006892 – CVENT006913. (Dkt No. 99-1)

- v. Exhibit X: document produced under bates numbers CVENT007463 – CVENT007481. (Dkt No. 99-2)
- w. Exhibit Y: document produced under bates numbers CVENT-N 007612. (Dkt No. 99-3)
- x. Exhibit Z: printout of a web page available at <https://web.cvent.com/event/37cf15b7-bbc6-40a2-8a8d-f83982051a6d/websitePage:345d8eec-7e98-4d16-b9f1-f71fadd10ae5> and printed on February 14, 2019. (Dkt No. 99-4)
- y. Exhibit AA: document produced under bates number CVENT-N 0012011. (Dkt No.99-5)
- z. Exhibit BB: document produced under bates number CVENT-N 0008645. (Dkt No.99-6)
- aa. Exhibit CC: document produced under bates numbers CVENT004963 – CVENT004964 and marked CONFIDENTIAL. [FILED UNDER SEAL] (Dkt No. 101-6)
- bb. Exhibit DD: document produced under bates number CVENT007484. (Dkt No. 99-8)
- cc. Exhibit EE: document produced under bates number TARSUS007337 and marked CONFIDENTIAL. [FILED UNDER SEAL] (Dkt No. 101-7)
- dd. Exhibit FF: document produced under bates number TARSUS005538. (Dkt No. 99-10)
- ee. Exhibit GG: a document produced under bates number TARSUS002323. (Dkt No. 99-11)
- ff. Exhibit HH: a document produced under bates number TARSUS004874. (Dkt No. 99-12)
- gg. Exhibit II: printout of search results of a search performed on February 14, 2019, in the U.S. Patent & Trademark Office’s Trademark Electronic Search System (“TESS”) for all trademark records of the U.S. Trademark Office showing the owner name containing “CVENT.” (Dkt No. 99-13)
- hh. Exhibit JJ: printout of search results of a search performed on February 14, 2019, in the Georgia Secretary of State’s online Trademark database for all state trademark records that show “Tarsus Connect” as owner. (Dkt No. 99-14)
- ii. Exhibit KK: document produced under bates numbers TARSUS009837 – TARSUS009842 and marked HIGHLY CONFIDENTIAL. [FILED UNDER SEAL] (Dkt No. 101-8)

- jj. Exhibit LL: excerpts of a magazine entitled “Connect Meetings Intelligence” dated September 2009. (Dkt No. 99-16)
- kk. Exhibit MM: excerpts from a magazine entitled “2016 Event Guide Association Specialty Connect.” (Dkt No. 99-17)
- ll. Exhibit NN: excerpts from a magazine entitled “2016 Event Guide Corporate Expo Specialty Connect.” (Dkt No. 99-18)
- mm. Exhibit OO: excerpts from a magazine entitled “2016 Event Guide Sports Specialty Connect.” (Dkt No. 99-19)
- nn. Exhibit PP: excerpts of a magazine entitled “Connect Meetings Intelligence” dated May/June 2012. (Dkt No. 99-20)
- oo. Exhibit QQ: excerpts of a magazine entitled “Connect Meetings Intelligence” dated July/August 2012. (Dkt No. 99-21)
- pp. Exhibit RR: documents produced under bates numbers
TARSUS007546 – TARSUS007548 (pgs. 2-4);
TARSUS007364 – TARSUS007365 (pgs. 5-6);
TARSUS006654 (pg. 7);
TARSUS007698 – TARSUS007699 (pgs. 8-9);
TARSUS007417 (pg. 10);
TARSUS007092 – TARSUS007094 (pgs. 11-13);
TARSUS007114 – TARSUS007115 (pgs. 14-15);
TARSUS007787 – TARSUS007788 (pgs. 16-17);
TARSUS007107 (pg. 18);
TARSUS009329 – TARSUS009330 (pgs. 19-20);
TARSUS007373 – TARSUS007374 (pgs. 21-22);
TARSUS009453 – TARSUS009455 (pgs. 23-25);
TARSUS007097 – TARSUS007098 (pgs. 26-27);
TARSUS007409 (pgs. 29);
TARSUS007527 – TARSUS007529 (pgs. 30-31);
TARSUS007799 (pg. 32);
TARSUS004363 (pg. 33);
TARSUS007530 – TARSUS007531 (pgs. 34-35);
TARSUS007473 – TARSUS007474 (pgs. 36-37);
TARSUS007372 (pg. 38);
TARSUS007095 – TARSUS007096 (pgs. 39-40);
TARSUS009269 – TARSUS009270 (pgs. 41-42);
TARSUS007068 (pg. 43);
TARSUS004454 (pg. 44); and

TARSUS009837 – TARSUS009842 (pgs. 45-50), marked either CONFIDENTIAL or HIGHLY CONFIDENTIAL. [FILED UNDER SEAL] (Dkt No.101-9 at page nos. referenced above in parentheses)

3. **Dkt No. 113-02** Declaration of Mary Margaret Cogburn
 - a. Exhibit A: document produced under bates numbers TARSUS009843 – TARSUS009844 and marked HIGHLY CONFIDENTIAL [FILED UNDER SEAL] (Dkt No. 114-03)
 - b. Exhibit B: document produced under bates number TARSUS009845 and marked HIGHLY CONFIDENTIAL [FILED UNDER SEAL] (Dkt No. 114-4)

III. Motion and Brief to Substitute and Supplement

The Court's September 13, 2019 Order (Dkt No. 130) has excluded documents produced after the close of discovery on January 14, 2019. That Order directly concerns Tarsus Connect's document production Volumes 20 and 21, which consist of Mr. Collinson's e-mails (Vol. 20, Bates Nos. TARSUS 006552-9836) and confusion e-mails received near or after the close of discovery (Vol. 21 and 22, TARSUS 009837 - 845). See, e.g., Dkt No. 108 at 16 (chart showing Volumes 20 and 21).

The Volume 20 production was provided in an effort to resolve a discovery dispute with Cvent. When preparing its motion for summary judgment, no motion to exclude had been filed and Tarsus Connect used certain documents from the Volume 20 production in support of that motion. Even though many of the cited e-

mails had been produced earlier, Tarsus Connect cited to and provided e-mails from the Volume 20 production. *See, e.g.*, Dkt No. 77-2 at 39-41, SMF 137. Similarly, in preparing its response to Cvent's motion for summary judgment, Tarsus Connect again referenced those e-mails. *See, e.g.*, Dkt No. 102-1 at 24-25. Two days before that response was due, Cvent asked Tarsus Connect to withdraw those documents. *See* Exhibit 9. Tarsus Connect responded the next day, explaining why it believed the documents should not be withdrawn. *Id.* Cvent did not respond, but moved to strike those documents the following day. Dkt No. 097.

Many of the Volume 20 e-mails are duplicates of earlier produced documents. The attached Exhibit 10 shows several examples (compare TARSUS007092-7094 with TARSUS004795-4798; TARSUS007409 with TARSUS004793; TARSUS007530-7531 with TARSUS004364-4365; and TARSUS007068 with TARSUS000359).

In view thereof, Tarsus Connect requests leave to substitute citations and to supplement the record with duplicate documents that were produced prior to the close of discovery.

Respectfully submitted this 13th day of September 2019.

/s/ Stephen M. Schaetzel
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*Attorneys for Plaintiff and
Counterclaim-Defendant
Tarsus Connect, LLC*

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

TARSUS CONNECT, LLC,
Plaintiff/Counter-Defendant,

v.

Case No.: 1:17-cv-05165-SCJ

CVENT, INC.
Defendant/Counter-Plaintiff.

LOCAL RULE 7.1D CERTIFICATION

I hereby certify, pursuant to L.R. 5.1B and 7.1D of the Northern District of Georgia, that the foregoing **RESPONSE TO ORDER OF SEPTEMBER 11, 2019 AND MOTION AND BRIEF TO SUBSTITUTE AND SUPPLEMENT EARLIER PRODUCED, DUPLICATE DOCUMENTS** complies with the font and point selections approved by the Court in L.R. 5.1B. The foregoing pleading was prepared on a computer using 14-point Times New Roman font.

Dated this 13th day of September 2019.

/s/ Stephen M. Schaetzel
Stephen M. Schaetzel

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

TARSUS CONNECT, LLC,
Plaintiff/Counter-Defendant,

v.

Case No.: 1:17-cv-05165-SCJ

CVENT, INC.
Defendant/Counter-Plaintiff.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that, on this 13th day of September 2019, the foregoing **RESPONSE TO ORDER OF SEPTEMBER 11, 2019 AND MOTION AND BRIEF TO SUBSTITUTE AND SUPPLEMENT EARLIER PRODUCED, DUPLICATE DOCUMENTS** was electronically filed with the Clerk of Court using the CM/ECF system, which will automatically send e-mail notification of such filing to all attorneys of record.

Dated: September 13, 2019

/s/ Stephen M. Schaetzel
Stephen M. Schaetzel